

Senate Study Bill 3130 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
APPROPRIATIONS BILL BY
CHAIRPERSON DVORSKY)

A BILL FOR

1 An Act relating to flood mitigation by establishing a flood
2 mitigation program, establishing a flood mitigation board,
3 authorizing the use of certain sales tax revenue and
4 other financial assistance for flood mitigation projects,
5 establishing a flood mitigation fund, authorizing the
6 issuance of bonds for certain flood mitigation projects,
7 providing for appropriations, and including effective date
8 provisions.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 29C.8, subsection 3, Code Supplement
2 2011, is amended by adding the following new paragraph:

3 NEW PARAGRAPH. *h.* Carry out duties related to the flood
4 mitigation program and the flood mitigation board under chapter
5 418.

6 Sec. 2. Section 331.430, subsection 2, Code 2011, is amended
7 by adding the following new paragraph:

8 NEW PARAGRAPH. *d.* Payments authorized to be made from the
9 debt service fund to a flood project fund under section 418.14,
10 subsection 4.

11 Sec. 3. Section 384.4, subsection 1, Code 2011, is amended
12 by adding the following new paragraph:

13 NEW PARAGRAPH. *e.* Payments authorized to be made from the
14 debt service fund to a flood project fund under section 418.14,
15 subsection 4.

16 Sec. 4. NEW SECTION. **418.1 Definitions.**

17 For purposes of this chapter, unless the context otherwise
18 requires:

19 1. "*Base year*" means the fiscal year ending during the
20 calendar year in which the governmental entity's project is
21 approved by the board under section 418.9.

22 2. "*Board*" means the flood mitigation board as created in
23 section 418.5.

24 3. "*Division*" means the homeland security and emergency
25 management division of the department of public defense.

26 4. "*Governmental entity*" means any of the following:

27 *a.* A county.

28 *b.* A city.

29 *c.* A joint board or other legal or administrative entity
30 established or designated in an agreement pursuant to chapter
31 28E between any of the following:

32 (1) Two or more cities located within the same county.

33 (2) A county and one or more cities located within the
34 county.

35 (3) A county, one or more cities located within the county,

1 and a drainage district formed by mutual agreement under
2 section 468.142.

3 5. "*Project*" means the construction and reconstruction
4 of levees, embankments, impounding reservoirs, or conduits
5 that are necessary for the protection of property from the
6 effects of floodwaters and may include the deepening, widening,
7 alteration, change, diversion, or other improvement of
8 watercourses if necessary for the protection of such property
9 from the effects of floodwaters. A project may consist of
10 one or more phases of construction or reconstruction that are
11 contracted for separately if the larger project, of which the
12 project is a part, otherwise meets the requirements of this
13 subsection.

14 6. "*Retail establishment*" means a business operated by a
15 retailer as defined in section 423.1.

16 7. "*Sales tax*" means the sales and services tax imposed
17 pursuant to section 423.2.

18 Sec. 5. NEW SECTION. 418.4 Projects.

19 1. a. A governmental entity may use the moneys in its flood
20 project fund established pursuant to section 418.13 to fund
21 projects that meet the requirements of this section.

22 b. A governmental entity as defined in section 418.1,
23 subsection 4, paragraph "c", shall have the power to construct,
24 acquire, own, repair, improve, operate, and maintain a project,
25 may sue and be sued, contract, and acquire and hold real and
26 personal property necessary for the project, and such other
27 powers as may be included in the chapter 28E agreement. Such
28 a governmental entity may contract with a city or the county
29 participating in the chapter 28E agreement to perform any
30 governmental service, activity, or undertaking that the city
31 or county is authorized by law to perform, including but not
32 limited to contracts for administrative services.

33 2. Prior to undertaking a project, the governmental entity
34 shall adopt a project plan. The project plan shall include a
35 detailed description of the project, state the estimated cost

1 of the project and the maximum amount of debt to be incurred
2 for purposes of funding the project, and include a detailed
3 description of all anticipated funding sources for the project,
4 including information relating to either the proposed use of
5 financial assistance from the flood mitigation fund under
6 section 418.10 or the proposed use of sales tax increment
7 revenues received under section 418.12. The project plan shall
8 also include information related to the approval criteria in
9 section 418.9, subsection 2.

10 3. A governmental entity shall not award a contract for
11 the construction or reconstruction of or otherwise undertake
12 construction or reconstruction of a project under this chapter
13 unless all of the following conditions are met:

14 a. Bidding for the project has been completed. A
15 governmental entity shall comply with the competitive bid
16 procedures in chapter 26 for the bidding and construction of
17 the project and shall comply with the provisions of chapter
18 573.

19 b. The project or an earlier phase of the project has been
20 approved to receive financial assistance in an amount equal to
21 at least twenty percent of the total project cost or thirty
22 million dollars, whichever is less, under the federal Water
23 Resources Development Act or other federal program providing
24 assistance specifically for hazard mitigation.

25 c. The project plan has been approved by the board under
26 section 418.9.

27 d. Following approval of the project plan by the board,
28 the governmental entity has adopted a resolution authorizing
29 the use of sales tax increment revenue from the governmental
30 entity's flood project fund, if sales tax increment revenue
31 was approved by the board as a funding source for the project.
32 Within ten days of adoption, the governmental entity shall
33 provide a copy of the resolution to the department of revenue.

34 4. A governmental entity shall not seek approval from the
35 board for a project if the governmental entity previously

1 had a project approved pursuant to section 418.9 or if the
2 governmental entity previously was part of a governmental
3 entity as defined in section 418.1, subsection 4, paragraph "c",
4 that had a project approved pursuant to section 418.9.

5 5. If a project is eligible for state financial assistance
6 under section 29C.6, subsection 17, such project is ineligible
7 for approval by the board under this chapter.

8 6. Following approval of a project under section 418.9, the
9 governmental entity shall on or before December 15 of each year
10 submit a report to the board detailing all of the following:

11 a. The current status of the project.

12 b. Total expenditures and the types of expenditures that
13 have been made related to the project.

14 c. The amount of the total project cost remaining as of the
15 date the report is submitted.

16 d. The amounts, types, and sources of funding being used.

17 e. The amount of bonds issued or other indebtedness incurred
18 for the project, including information related to the rate of
19 interest, length of term, costs of issuance, and net proceeds.
20 The report shall also include the amounts and types of moneys
21 used for payment of such bonds or indebtedness.

22 7. A governmental entity may contract with a council of
23 governments to perform any duty or power authorized under this
24 chapter or for the completion of a project.

25 Sec. 6. NEW SECTION. 418.5 Flood mitigation board.

26 1. The flood mitigation board is established consisting of
27 nine voting members and four ex officio, nonvoting members, and
28 is located for administrative purposes within the division.
29 The administrator of the division shall provide office space,
30 staff assistance, and necessary supplies and equipment for
31 the board. The administrator shall budget funds to pay the
32 necessary expenses of the board. In performing its functions,
33 the board is performing a public function on behalf of the
34 state and is a public instrumentality of the state.

35 2. The voting membership of the board shall include all of

1 the following:

2 *a.* Four members of the general public. Two general public
3 members shall have demonstrable experience or expertise in
4 the field of natural disaster recovery and two general public
5 members shall have demonstrable experience or expertise in the
6 field of flood mitigation.

7 *b.* The director of the department of natural resources or
8 the director's designee.

9 *c.* The secretary of agriculture or the secretary's designee.

10 *d.* The treasurer of state or the treasurer's designee.

11 *e.* The administrator of the division or the administrator's
12 designee.

13 *f.* The executive director of the Iowa finance authority or
14 the executive director's designee.

15 3. The general public members shall be appointed by
16 the governor, subject to confirmation by the senate. The
17 appointments shall comply with sections 69.16 and 69.16A.

18 4. The chairperson and vice chairperson of the board shall
19 be designated by the governor from the board members listed
20 in subsection 2. In case of the absence or disability of the
21 chairperson and vice chairperson, the members of the board
22 shall elect a temporary chairperson by a majority vote of those
23 members who are present and voting.

24 5. The members appointed under subsection 2, paragraph
25 "a", shall be appointed to three-year staggered terms and the
26 terms shall commence and end as provided by section 69.19. If
27 a vacancy occurs, a successor shall be appointed to serve the
28 unexpired term. A successor shall be appointed in the same
29 manner and subject to the same qualifications as the original
30 appointment.

31 6. The board's ex officio membership shall include four
32 members of the general assembly with one each appointed by
33 the majority leader of the senate, the minority leader of the
34 senate, the speaker of the house of representatives, and the
35 minority leader of the house of representatives. A legislative

1 member serves for a term as provided in section 69.16B in an ex
2 officio, nonvoting capacity and is eligible for per diem and
3 expenses as provided in section 2.10.

4 7. A majority of the board constitutes a quorum.

5 Sec. 7. NEW SECTION. **418.6 Expenses of board members.**

6 The voting members of the board are entitled to receive
7 reimbursement for actual expenses incurred while engaged in the
8 performance of official duties. A member of the board is not
9 eligible to receive the additional expense allowance provided
10 in section 7E.6, subsection 2.

11 Sec. 8. NEW SECTION. **418.7 Division duties.**

12 The division, subject to approval by the board, shall
13 adopt administrative rules pursuant to chapter 17A necessary
14 to administer the flood mitigation program. The division
15 shall provide the board with assistance in implementing
16 administrative functions and providing technical assistance and
17 application assistance to applicants under the program.

18 Sec. 9. NEW SECTION. **418.8 Flood mitigation program.**

19 1. The board shall establish and the division, subject
20 to direction and approval by the board, shall administer a
21 flood mitigation program to assist governmental entities
22 in undertaking projects approved under this chapter. The
23 flood mitigation program shall include projects approved
24 by the board to utilize either financial assistance from
25 the flood mitigation fund created under section 418.10 or
26 sales tax revenues remitted to the governmental entity under
27 section 418.12. A governmental entity shall not be approved
28 by the board to utilize both financial assistance from the
29 flood mitigation fund and sales tax revenues remitted to the
30 governmental entity.

31 2. The board shall, by rules adopted under section
32 418.7, prescribe application instructions, forms, and other
33 requirements deemed necessary to operate the flood mitigation
34 program.

35 3. The board may contract with or otherwise consult with the

1 Iowa flood center, established under section 466C.1, to assist
2 the board in administering the flood mitigation program.

3 4. The board shall submit a written report to the governor
4 and the general assembly on or before January 15 of each year.
5 The report shall include information relating to all projects
6 approved by the board for inclusion in the flood mitigation
7 program, the status of such projects, summaries of each report
8 submitted to the board under section 418.4, subsection 6,
9 information relating to the types of funding being used for
10 each approved project, including all indebtedness incurred by
11 the applicable governmental entities, and any recommendations
12 for legislative action to modify the provisions of this
13 chapter.

14 Sec. 10. NEW SECTION. 418.9 Project application review.

15 1. a. A governmental entity shall submit an application
16 to the board for approval of a project plan. The board shall
17 not approve a project for inclusion in the program if the
18 application is submitted after January 1, 2016.

19 b. The application shall specify whether the governmental
20 entity is requesting financial assistance from the flood
21 mitigation fund or approval for the use of sales tax revenues.
22 Applications for financial assistance from the flood mitigation
23 fund shall describe the type and amount of assistance
24 requested. Applications for the use of sales tax revenues
25 shall state the amount of sales tax revenues necessary for
26 completion of the project.

27 2. Each application shall include or have attached to
28 the application, the governmental entity's project plan
29 adopted under section 418.4, subsection 2. When reviewing
30 applications, in addition to the project plan, the board shall
31 consider, at a minimum, all of the following:

32 a. Whether the project is designed to mitigate future
33 flooding of property that has sustained significant flood
34 damage and is likely to sustain significant flood damage in the
35 future.

1 **b.** Whether the project plan addresses the impact of flooding
2 both upstream and downstream from the area where the project
3 is to be undertaken and whether the project conforms to any
4 applicable floodplain ordinance.

5 **c.** Whether the area that would benefit from the project's
6 flood mitigation efforts is sufficiently valuable to the
7 economic viability of the state or is of sufficient historic
8 value to the state to justify the cost of the project.

9 **d.** The extent to which the project would utilize local
10 matching funds. The board shall not approve a project unless
11 at least fifty percent of the total cost of the project, less
12 any federal financial assistance for the project, is funded
13 using local matching funds, and unless the project will result
14 in nonpublic investment in the governmental entity's area as
15 defined in section 418.11, subsection 3, of an amount equal to
16 fifty percent of the total cost of the project. For purposes
17 of this paragraph, "*nonpublic investment*" means investment
18 by nonpublic entities consisting of capital investment or
19 infrastructure improvements occurring in anticipation of or as
20 a result of the project during the period of time between July
21 1, 2008, and ten years following completion of the project.

22 **e.** The extent of nonfinancial support committed to the
23 project from public and nonpublic sources.

24 **f.** Whether the project is designed in coordination with
25 other watershed management measures adopted by the governmental
26 entity or adopted by the participating jurisdictions of the
27 governmental entity, as applicable.

28 **g.** Whether the project plan is consistent with the
29 applicable comprehensive, countywide emergency operations plan
30 in effect and other applicable local hazard mitigation plans.

31 **h.** Whether financial assistance through the flood mitigation
32 program is essential to meet the necessary expenses or serious
33 needs of the governmental entity related to flood mitigation.

34 **3.** If requested by the board during consideration of
35 an application, the governmental entity shall pay for an

1 independent engineering review of the project to determine
2 the technical feasibility, engineering standards, and total
3 estimated cost of the project. An engineering review required
4 by the board under this subsection may be completed by the
5 United States army corps of engineers.

6 4. Upon review of the applications, the board, following
7 consultation with the economic development authority, shall
8 approve, defer, or deny the applications. If a project plan
9 is denied, the board shall state the reasons for the denial
10 and the governmental entity may resubmit the application so
11 long as the application is filed on or before January 1, 2016.
12 If a project plan application is approved, the board shall
13 specify whether the governmental entity is approved for the
14 use of sales tax revenues under section 418.12 or whether the
15 governmental entity is approved to receive financial assistance
16 from the flood mitigation fund under section 418.10. If
17 the board approves a project plan application that includes
18 financial assistance from the flood mitigation fund, the board
19 shall negotiate and execute on behalf of the division all
20 necessary agreements to provide such financial assistance. If
21 the board approves a project plan application that includes
22 the use of sales tax increment revenues, the board shall
23 establish the annual maximum amount of such revenues that
24 may be remitted to the governmental entity not to exceed the
25 limitations in section 418.12, subsection 4. The board may,
26 however, establish remittance limitations for the project lower
27 than the individual project remittance limitations specified
28 for projects under section 418.12, subsection 4.

29 5. The board shall not approve a project plan application
30 that includes financial assistance from the flood mitigation
31 fund or the use of sales tax revenue to pay principal and
32 interest on or to refinance any debt or other obligation
33 existing prior to the approval of the project.

34 6. The board shall not approve a project plan application
35 for which the amount of sales tax increment revenue remitted to

1 the governmental entity would exceed fifteen million dollars in
2 any one fiscal year or if approval of the project would result
3 in total remittances in any one fiscal year for all approved
4 projects to exceed, in the aggregate, thirty million dollars.

5 7. Upon approval of an application for financial assistance
6 under the program, the board shall notify the treasurer of
7 state regarding the amount of moneys needed to satisfy the
8 award of financial assistance and the terms of the award. The
9 treasurer of state shall notify the division any time moneys
10 are disbursed to a recipient of financial assistance under the
11 program.

12 8. If, following approval of a project application under the
13 program, it is determined that the amount of federal financial
14 assistance exceeds the amount of federal financial assistance
15 specified in the application, the board shall reduce the award
16 of financial assistance from the flood mitigation fund or
17 reduce the amount of sales tax revenue to be received for the
18 project by a corresponding amount.

19 Sec. 11. NEW SECTION. 418.10 Flood mitigation fund.

20 1. A flood mitigation fund is created as a separate and
21 distinct fund in the state treasury under the control of the
22 board and consists of moneys appropriated by the general
23 assembly and any other moneys available to and obtained or
24 accepted by the board for placement in the fund. Moneys in the
25 fund shall only be used for the purposes of this section.

26 2. Payments of interest, repayments of moneys loaned
27 pursuant to this chapter, and recaptures of grants, if provided
28 for in the financial assistance agreements, shall be deposited
29 in the fund.

30 3. The moneys in the fund shall be used to provide
31 assistance in the form of grants, loans, and forgivable loans.
32 The board may only provide financial assistance from moneys in
33 the fund.

34 4. Moneys credited to the fund are not subject to
35 section 8.33 and shall not be transferred, used, obligated,

1 appropriated, or otherwise encumbered except as provided in
2 this chapter. Notwithstanding section 12C.7, subsection 2,
3 interest or earnings on moneys in the fund shall be credited
4 to the fund.

5 5. If any portion of the moneys appropriated for deposit
6 in the fund have not been awarded during the fiscal year for
7 which the appropriation is made, the portion which has not
8 been awarded may be utilized by the board to provide financial
9 assistance under the program in subsequent fiscal years.

10 6. The board may make a multiyear commitment to a
11 governmental entity of up to four million dollars in any one
12 fiscal year.

13 7. Moneys received by a governmental entity from the fund
14 shall be deposited in the governmental entity's flood project
15 fund under section 418.13.

16 8. The board is not required to award financial assistance
17 pursuant to this section unless moneys are appropriated to and
18 available from the fund.

19 9. Following completion of all projects approved to utilize
20 financial assistance from the fund and upon a determination
21 by the board that remaining moneys in the fund are no longer
22 needed for the program, all moneys remaining in the fund or
23 subsequently deposited in the fund shall be credited for
24 deposit in the general fund of the state.

25 Sec. 12. NEW SECTION. 418.11 Sales tax increment
26 calculation.

27 1. The department of revenue shall calculate quarterly the
28 amount of increased sales tax revenues to be credited to the
29 sales tax increment fund pursuant to section 423.2, subsection
30 11, paragraph "a", subparagraph (2).

31 2. The department of revenue shall calculate the amount of
32 the increase for purposes of subsection 1 as follows:

33 a. Determine the amount of sales subject to the tax under
34 section 423.2 in each applicable area specified in subsection
35 3, during the corresponding quarter in the base year from

1 retail establishments in such areas.

2 *b.* Determine the amount of sales subject to the tax under
3 section 423.2 in each applicable area specified in subsection
4 3, during the corresponding quarter in each subsequent calendar
5 year from retail establishments in such areas.

6 *c.* Subtract the base year quarterly amount determined under
7 paragraph "a" from the subsequent calendar year quarterly
8 amount in paragraph "b".

9 *d.* If the amount determined under paragraph "c" is positive,
10 the product of the amount determined under paragraph "c" times
11 the tax rate imposed under section 423.2 shall constitute the
12 amount of increased sales tax revenue pursuant to subsection 1.

13 3. *a.* For projects approved for a governmental entity as
14 defined in section 418.1, subsection 4, paragraph "a", the area
15 used to determine the sales tax increment shall include only
16 the unincorporated areas of the county.

17 *b.* For projects approved for a governmental entity as
18 defined in section 418.1, subsection 4, paragraph "b", the area
19 used to determine the sales tax increment shall include only
20 the incorporated areas of the city.

21 *c.* For projects approved for a governmental entity as
22 defined in section 418.1, subsection 4, paragraph "c", the
23 area used to determine the sales tax increment shall include
24 the incorporated areas of each city that is participating
25 in the chapter 28E agreement, the unincorporated areas of
26 the participating county, and the area of any participating
27 drainage district not otherwise included in the areas of the
28 participating cities or county, as applicable.

29 4. Each governmental entity shall assist the department
30 of revenue in identifying retail establishments in the
31 governmental entity's applicable area that are collecting sales
32 tax. This process shall be ongoing until the governmental
33 entity ceases to utilize sales tax revenue under this chapter.

34 Sec. 13. NEW SECTION. 418.12 Sales tax increment fund.

35 1. A sales tax increment fund is established as a separate

1 and distinct fund in the state treasury under the control of
2 the department of revenue consisting of the amount of the
3 increased state sales and services tax revenues collected by
4 the department of revenue within each applicable area specified
5 in section 418.11, subsection 3, and deposited in the fund
6 pursuant to section 423.2, subsection 11, paragraph "b". Moneys
7 deposited in the fund are appropriated to the department of
8 revenue for the purposes of this section. Moneys in the fund
9 shall only be used for the purposes of this section.

10 2. An account is created within the fund for each
11 governmental entity that has adopted a resolution under section
12 418.4, subsection 3, paragraph "d".

13 3. The department of revenue shall deposit in the fund the
14 moneys described in subsection 1 beginning the first day of the
15 quarter following receipt of a resolution under section 418.4,
16 subsection 3, paragraph "d". However, in no case shall a sales
17 tax increment be calculated under section 418.11 or such moneys
18 be deposited in the fund under this section prior to January
19 1, 2014.

20 4. a. Upon request of a governmental entity, the department
21 of revenue shall remit the moneys in the governmental entity's
22 account within the fund to the governmental entity for deposit
23 in the governmental entity's flood project fund. Such requests
24 shall be made not more than quarterly. Requests for remittance
25 shall be submitted on forms prescribed by the department
26 of revenue. In lieu of quarterly requests, a governmental
27 entity may submit a certified schedule of principal and
28 interest payments on bonds issued under section 418.14. If
29 such a certified schedule is submitted, the department of
30 revenue shall, subject to the remittance limitations of this
31 chapter, remit from the governmental entity's account to the
32 governmental entity for deposit in the governmental entity's
33 flood project fund the amounts necessary for such principal and
34 interest payments in accordance with the certified schedule.
35 Requests for remittance shall be made for the amount of moneys

1 in the governmental entity's account necessary to pay the
2 governmental entity's costs or obligations related to the
3 project, according to the sales tax revenue funding needs
4 specified in the approved project plan. A governmental entity
5 shall not, however, during any fiscal year receive remittances
6 under this section exceeding fifteen million dollars or seventy
7 percent of the total yearly amount of increased sales tax
8 increment revenue in the governmental entity's applicable area
9 and deposited in the governmental entity's account, whichever
10 is less. The total amount of remittances during any fiscal
11 year for all governmental entities approved to use sales tax
12 revenues under this chapter shall not exceed, in the aggregate,
13 thirty million dollars. Remittances from the department of
14 revenue shall be deposited in the governmental entity's flood
15 project fund under section 418.13.

16 *b.* The department of revenue shall adopt rules for the
17 remittance of moneys to governmental entities.

18 5. If the department of revenue determines that the revenue
19 accruing to the fund or accounts within the fund exceeds
20 thirty million dollars or exceeds the amount necessary for
21 the purposes of this chapter if the amount necessary is less
22 than thirty million dollars, then those excess moneys shall
23 be credited by the department of revenue for deposit in the
24 general fund of the state.

25 6. If the nonpublic investment requirements of section
26 418.9, subsection 2, paragraph "d", are not satisfied, the board
27 shall reduce the governmental entity's amount of sales tax
28 increment revenues eligible to be remitted during the remaining
29 period of time for receiving remittances by an amount equal
30 to the shortfall in nonpublic investment. However, such a
31 reduction shall not be to an amount less than zero.

32 Sec. 14. NEW SECTION. 418.13 Flood project fund.

33 1. Sales tax revenue remitted by the department of revenue
34 to a governmental entity under section 418.12 or financial
35 assistance received by a governmental entity pursuant to

1 section 418.10 shall be deposited in the governmental entity's
2 flood project fund created for purposes of this chapter and
3 shall be used to fund the costs of the governmental entity's
4 approved project and to pay principal and interest on bonds
5 issued pursuant to section 418.14, if applicable.

6 2. In addition to the moneys received pursuant to section
7 418.10 or 418.12, a governmental entity may deposit in the
8 flood project fund any other moneys lawfully received by the
9 governmental entity, including but not limited to local sales
10 and services tax receipts collected under chapter 423B.

11 Sec. 15. NEW SECTION. 418.14 Bond issuance.

12 1. a. A governmental entity receiving sales tax revenues
13 pursuant to this chapter is authorized to issue bonds that are
14 payable from revenues deposited in the governmental entity's
15 flood project fund created pursuant to section 418.13 for the
16 purpose of funding a project in the area from which sales tax
17 revenues will be collected.

18 b. A governmental entity shall have the authority to pledge
19 irrevocably to the payment of the bonds an amount of revenue
20 derived from the sales tax revenue received by the governmental
21 entity pursuant to section 418.12 for each of the years the
22 bonds remain outstanding, together with other amounts held in
23 the flood project fund of the governmental entity.

24 c. The costs of a project may include but are not limited
25 to administrative expenses, construction and reconstruction
26 costs, engineering, fiscal, financial and legal expenses,
27 surveys, plans and specifications, interest during construction
28 or reconstruction and for one year after completion of the
29 project, initial reserve funds, acquisition of real or personal
30 property necessary for the construction or reconstruction
31 of the project, and such other costs as are necessary and
32 incidental to the construction or reconstruction of the project
33 and the financing thereof. The governmental entity shall have
34 the power to retain and enter into agreements with engineers,
35 fiscal agents, financial advisers, attorneys, architects, and

1 other consultants or advisers for planning, supervision, and
2 financing of a project upon such terms and conditions as shall
3 be deemed by the governing body of the governmental entity as
4 advisable and in the best interest of the governmental entity.
5 Bonds issued under the provisions of this chapter are declared
6 to be investment securities under the laws of the state of
7 Iowa.

8 2. *a.* If a governmental entity elects to authorize the
9 issuance of bonds payable as provided in this section, the
10 governmental entity shall follow the authorization procedures
11 for cities set forth in section 384.83.

12 *b.* A governmental entity shall have the authority to issue
13 bonds for the purpose of refunding outstanding bonds issued
14 under this section without otherwise complying with the notice
15 and hearing provisions of section 384.83.

16 3. *a.* Except as otherwise provided in this section,
17 bonds issued pursuant to this section shall not be subject to
18 the provisions of any other law or charter relating to the
19 authorization, issuance, or sale of bonds. Bonds issued under
20 this section shall not limit or restrict the authority of a
21 governmental entity as defined in section 418.1, subsection 4,
22 paragraphs "a" and "b", or a city, county, or drainage district
23 participating in a governmental entity as defined in section
24 418.1, subsection 4, paragraph "c", to issue bonds for the
25 project under other provisions of the Code.

26 *b.* The bonds may be issued in one or more series and shall
27 comply with all of the following:

28 (1) The bonds shall bear the date of issuance.

29 (2) The bonds shall specify whether they are payable on
30 demand or the time of maturity.

31 (3) The bonds shall bear interest at a rate not exceeding
32 that permitted by chapter 74A.

33 (4) The bonds shall be in a denomination or denominations,
34 be in the form, have the rank or priority, be executed in
35 the manner, be payable in the medium of payment, at the

1 place or places, be subject to the terms of redemption, with
2 or without premium, be secured in the manner, and have the
3 other characteristics, as may be provided by the resolution
4 authorizing their issuance. The resolution authorizing the
5 issuance of the bonds may also prescribe additional provisions,
6 terms, conditions, and covenants which the governmental
7 entity deems advisable, including provisions for creating and
8 maintaining reserve funds and the issuance of additional bonds
9 ranking on a parity with such bonds and additional bonds junior
10 and subordinate to such bonds.

11 *c.* The bonds may be sold at public or private sale at a
12 price as may be determined by the governmental entity.

13 *d.* The principal and interest on the bonds issued by a
14 governmental entity under this section shall be payable solely
15 from and secured by the revenue derived from the sales tax
16 revenues received by the governmental entity pursuant to
17 section 418.12 and from other funds of the governmental entity
18 lawfully available from the governmental entity's flood project
19 fund established under section 418.13.

20 4. *a.* Bonds, notes, or other obligations issued by a
21 governmental entity for purposes of financing a project under
22 this chapter are not an obligation of this state. Except as
23 provided in paragraph "b", bonds, notes, or other obligations
24 issued by a governmental entity for purposes of financing
25 a project under this chapter are not an obligation of any
26 political subdivision of this state other than the governmental
27 entity. A governmental entity shall not pledge the credit or
28 taxing power of this state. Except as provided in paragraph
29 "b", a governmental entity shall not pledge the credit or taxing
30 power of any political subdivision of this state other than the
31 governmental entity or make its debts payable out of any of the
32 moneys except those in the governmental entity's flood project
33 fund.

34 *b.* If the moneys in the governmental entity's flood project
35 fund are insufficient to pay the governmental entity's costs

1 related to bonds, notes, or other obligations issued under
2 this chapter, the amounts necessary to pay such costs may
3 be levied and transferred for deposit in the governmental
4 entity's flood project fund from the debt service fund of the
5 governmental entity or, if applicable, the debt service fund
6 of a participating city or county for a governmental entity as
7 defined in section 418.1, subsection 4, paragraph "c", if and to
8 the extent provided in the resolution authorizing the issuance
9 of bonds and, if applicable, the chapter 28E agreement.

10 Sec. 16. NEW SECTION. 418.15 Durational limitation on use
11 of revenues — property disposition.

12 1. A governmental entity shall not receive remittances of
13 sales tax revenue under this chapter after twenty-five years
14 from the date the governmental entity's project was approved
15 by the board.

16 2. If the governmental entity ceases to need the sales
17 tax revenues prior to the expiration of the limitation under
18 subsection 1, the governmental entity shall notify the director
19 of revenue.

20 3. Upon the receipt of a notification pursuant to subsection
21 2, or the expiration of the limitation under subsection 1, the
22 department of revenue shall cease to deposit revenues into the
23 governmental entity's account in the sales tax increment fund.

24 4. All property and improvements acquired by a governmental
25 entity as defined in section 418.1, subsection 4, paragraph "c",
26 relating to a project shall be transferred to the county, city,
27 or drainage district designated in the chapter 28E agreement to
28 receive such property and improvements. The county, city, or
29 drainage district to which such property or improvements are
30 transferred shall, unless otherwise provided in the chapter 28E
31 agreement, be solely responsible for the ongoing maintenance
32 and support of such property and improvements.

33 Sec. 17. Section 423.2, subsection 11, Code Supplement
34 2011, is amended to read as follows:

35 11. a. (1) All revenues arising under the operation of the

1 provisions of this section shall be deposited into the general
2 fund of the state.

3 (2) Subsequent to the deposit into the general fund of the
4 state, the director shall credit an amount equal to the amount
5 of the increase in sales tax revenue, determined in section
6 418.11, subsection 2, paragraph "d", in the applicable area of a
7 governmental entity that is approved to use sales tax revenues
8 under chapter 418 into an account created for that governmental
9 entity in the sales tax increment fund created in section
10 418.12. The director shall credit the moneys beginning the
11 first day of the quarter following adoption of the resolution
12 pursuant to section 418.4, subsection 3, paragraph "d".

13 b. Subsequent to the deposit into the general fund of the
14 state and after the transfer of such pursuant to paragraph "a",
15 the department shall do the following in the order prescribed:

16 (1) Transfer the revenues collected under chapter 423B, the
17 department shall transfer.

18 (2) Transfer one-sixth of such the remaining revenues to the
19 secure an advanced vision for education fund created in section
20 423F.2. This paragraph subparagraph (2) is repealed December
21 31, 2029.

22 (3) Transfer to the sales tax increment fund that portion of
23 the sales tax receipts described in paragraph "a", subparagraph
24 (2), remaining after the transfers required under subparagraphs
25 (1) and (2) of this paragraph "b".

26 Sec. 18. EFFECTIVE UPON ENACTMENT. This Act, being deemed
27 of immediate importance, takes effect upon enactment.

28 EXPLANATION

29 This bill relates to flood mitigation by establishing a
30 flood mitigation program, establishing a flood mitigation
31 board, authorizing the use of certain sales tax revenue
32 and other financial assistance for certain flood mitigation
33 projects and providing for their appropriation, establishing a
34 flood mitigation fund, and authorizing the issuance of bonds
35 for certain flood mitigation projects.

1 The bill authorizes certain governmental entities to
2 undertake flood-related projects. The bill defines "project"
3 to mean the construction and reconstruction of levees,
4 embankments, impounding reservoirs, or conduits that are
5 necessary for the protection of property from the effects
6 of floodwaters and may include the deepening, widening,
7 alteration, change, diversion, or other improvement of
8 watercourses if necessary for the protection of such property
9 from the effects of floodwaters. A project may consist of
10 one or more phases of construction or reconstruction that are
11 contracted for separately if the larger project, of which the
12 project is a part, otherwise meets the requirements of this
13 subsection. The bill requires a project to be preceded by
14 adoption of a project plan that includes a detailed description
15 of the project, states the estimated cost of the project
16 and the maximum amount of debt to be incurred for purposes
17 of funding the project, and includes a description of all
18 anticipated funding sources for the project. The project plan
19 must also include information related to the approval criteria
20 used by the flood mitigation board.

21 The bill prohibits a governmental entity from awarding a
22 contract for the construction or reconstruction of or otherwise
23 undertaking construction or reconstruction of a project
24 unless bidding for the project is complete, the project or
25 an earlier phase of the project has been approved to receive
26 certain federal financial assistance, the project plan has been
27 approved by the flood mitigation board, and the governmental
28 entity has adopted and filed with the department of revenue a
29 resolution authorizing the use of sales tax increment revenue,
30 if sales tax increment revenue was designated as a funding
31 source for the project. The bill authorizes a governmental
32 entity to contract with a council of governments to perform any
33 duty or power authorized in the bill or for the completion of
34 the project.

35 The bill provides that a governmental entity may not seek

1 approval from the board for a project if the governmental
2 entity previously had a project approved under the flood
3 mitigation program or was part of a governmental entity that
4 previously had a project approved by the board under the flood
5 mitigation program.

6 The bill provides that a project eligible for state
7 financial assistance under Code section 29C.6(17) is ineligible
8 for approval by the board under the flood mitigation program.

9 The bill requires a governmental entity that has a project
10 approved by the flood mitigation board to prepare and submit an
11 annual report on or before December 15 to the board detailing
12 the status and progress of the project.

13 The bill establishes a flood mitigation board within the
14 homeland security and emergency management division of the
15 department of public defense consisting of nine voting members
16 and four ex officio, nonvoting legislative members. The voting
17 membership of the board includes four members of the general
18 public having demonstrable experience or expertise in the field
19 of natural disaster or flood mitigation, the director of the
20 department of natural resources or the director's designee,
21 the secretary of agriculture or the secretary's designee,
22 the treasurer of state or the treasurer's designee, the
23 administrator of the homeland security and emergency management
24 division or the administrator's designee, and the executive
25 director of the Iowa finance authority or the executive
26 director's designee. Appointment of the general public members
27 shall be made by the governor, shall be subject to confirmation
28 by the senate, and shall be for three-year staggered terms.
29 The members of the board are entitled to receive reimbursement
30 for actual expenses incurred while engaged in the performance
31 of official duties.

32 The bill requires the board to establish and administer a
33 flood mitigation program to assist governmental entities in
34 undertaking approved projects. The flood mitigation program
35 includes projects approved by the board to utilize either

1 financial assistance from the flood mitigation fund created
2 in the bill or sales tax increment revenues remitted to the
3 governmental entity. The bill prohibits a project from being
4 approved by the board to utilize both financial assistance from
5 the flood mitigation fund and sales tax increment revenues for
6 the same project. The bill authorizes the board to consult
7 with the Iowa flood center to assist the board in administering
8 the flood mitigation program.

9 Governmental subdivisions must submit project applications
10 to the flood mitigation board for approval. The board is
11 prohibited from approving applications submitted after
12 January 1, 2016. The application shall specify whether the
13 governmental entity is requesting financial assistance from
14 the flood mitigation fund or approval for the use of sales tax
15 increment revenues. Applications for financial assistance
16 from the flood mitigation fund are required to describe the
17 type and amount of assistance requested. Applications for the
18 use of sales tax increment revenues shall state the amount of
19 such revenues necessary for completion of the project. Each
20 application shall include, or have attached to the application,
21 the governmental entity's project plan.

22 The bill requires the board, when reviewing applications,
23 in addition to the governmental entity's project plan, to
24 consider, at a minimum, whether the project is designed
25 to mitigate future flooding of property that has sustained
26 significant flood damage and is likely to sustain significant
27 flood damage in the future, whether the project addresses the
28 impact of flooding both upstream and downstream from the area
29 where the project is to be undertaken, whether the project
30 conforms to any applicable floodplain ordinance, whether the
31 area that would benefit from the project's flood mitigation
32 efforts is sufficiently valuable to the economic viability
33 of the state or is of sufficient historic value to the state
34 to justify the cost of the project, the extent to which the
35 project would utilize local matching funds including whether

1 the project meets specific local matching funds requirements,
2 whether the project will result in specified amounts of
3 nonpublic investment, as defined in the bill, the extent
4 of nonfinancial support from public and nonpublic sources,
5 whether the project is designed in coordination with other
6 watershed management measures adopted by the governmental
7 entity or adopted by the participating jurisdictions of the
8 governmental entity, whether the project is consistent with the
9 applicable comprehensive, countywide emergency operations plan
10 or other applicable local hazard mitigation plan, and whether
11 financial assistance through the flood mitigation program is
12 essential to meet the necessary expenses or serious needs of
13 the governmental entity related to flood mitigation.

14 Upon review of the applications, the flood mitigation board,
15 following consultation with the economic development authority,
16 shall approve, defer, or deny the applications. If a project
17 plan is denied, the board shall state the reasons for the
18 denial and the governmental entity may resubmit the application
19 so long as the application is filed on or before January 1,
20 2016.

21 If a project plan application is approved, the board shall
22 specify whether the governmental entity is approved for the use
23 of sales tax increment revenues or whether the governmental
24 entity is approved to receive financial assistance from the
25 flood mitigation fund. If the board approves a project plan
26 application that includes financial assistance from the flood
27 mitigation fund, the board shall negotiate and execute on
28 behalf of the division all necessary agreements to provide
29 such financial assistance. If the board approves a project
30 plan application that includes the use of sales tax increment
31 revenues, the board shall establish the annual maximum amount
32 of such revenues that may be remitted to the governmental
33 entity not to exceed the specified limitations in the bill.
34 The bill provides for the reduction of an award of financial
35 assistance from the flood mitigation fund or a reduction in

1 the amount of sales tax increment revenues to be received for
2 the project if federal financial assistance exceeds the amount
3 stated in the project plan application.

4 Under the bill, the board shall not approve a project plan
5 application for which the amount of sales tax increment revenue
6 remitted to the governmental entity would exceed \$15 million in
7 any one fiscal year or if approval of the project would result
8 in total remittances in any one fiscal year for all approved
9 projects to exceed, in the aggregate, \$30 million.

10 The bill requires the flood mitigation board to prepare
11 and submit an annual report to the governor and the general
12 assembly on or before January 15 containing certain information
13 relating to the projects approved by the board, certain
14 information relating to the governmental entities undertaking
15 each project, and any recommendations for legislative action to
16 modify the provisions of new Code chapter 418.

17 The bill establishes a flood mitigation fund as a separate
18 and distinct fund in the state treasury under the control
19 of the board. Moneys in the flood mitigation fund are used
20 to provide assistance in the form of grants, loans, and
21 forgivable loans. The board may make a multiyear commitment
22 to a governmental entity of up to \$4 million in any one fiscal
23 year. Following completion of all projects approved to utilize
24 financial assistance from the fund and upon a determination
25 by the board that remaining moneys in the fund are no longer
26 needed for the program, all moneys remaining in the fund or
27 subsequently deposited in the fund shall be credited for
28 deposit in the general fund of the state.

29 The bill authorizes, upon approval of the flood mitigation
30 board, governmental entities to use increased sales tax revenue
31 collected within a specified area to fund projects.

32 The bill establishes the methodology to be used by the
33 department of revenue for calculating the increased sales tax
34 revenue for each governmental entity approved to use such
35 revenue for a project under the bill.

1 The bill creates a sales tax increment fund within the
2 department of revenue and an account in the fund for each
3 governmental entity approved by the flood mitigation board to
4 use such revenues for a project. The department credits the
5 amount of the governmental entity's increased revenues to the
6 governmental entity's account. However, the bill specifies
7 that in no case shall a sales tax increment be credited to the
8 fund prior to January 1, 2014.

9 The bill directs the department of revenue to remit the
10 moneys in the governmental entity's account within the fund
11 upon request of the governmental entity. Such requests shall
12 be made not more than quarterly or according to a schedule
13 submitted by the governmental entity. Requests for remittance
14 shall be made for the amount of moneys in the governmental
15 entity's account necessary to pay the governmental entity's
16 costs or obligations related to the project, according to the
17 sales tax revenue funding needs specified in the approved
18 project plan. A governmental entity shall not, however,
19 receive remittances during any fiscal year exceeding \$15
20 million or 70 percent of the total yearly amount of increased
21 sales tax increment revenue in the governmental entity's
22 applicable area, whichever is less. Remittances from the
23 department of revenue are deposited in the governmental
24 entity's flood project fund. In addition, the total amount
25 of remittances during any fiscal year for all governmental
26 entities approved to use sales tax increment revenues under
27 this chapter shall not exceed, in the aggregate, \$30 million.
28 If the department of revenue determines that the revenue
29 accruing to the sales tax increment fund or accounts within
30 the fund exceed \$30 million or the amount necessary for the
31 purposes of new Code chapter 418 if less than \$30 million, then
32 those excess moneys shall be credited by the department of
33 revenue for deposit in the general fund of the state.
34 Under the bill, if the nonpublic investment requirements
35 for the project are not satisfied, the board shall reduce the

1 governmental entity's amount of sales tax increment revenues
2 eligible to be remitted during the remaining period of time for
3 receiving remittances by an amount equal to the shortfall in
4 nonpublic investment. However, such a reduction shall not be
5 to an amount less than zero.

6 The bill provides that moneys deposited in a governmental
7 entity's flood project fund shall be used to fund costs of the
8 projects and to pay principal and interest on bonds issued
9 under the bill, if applicable. The bill also provides that in
10 addition to the sales tax revenues remitted by the department
11 of revenue and financial assistance from the flood mitigation
12 fund, a governmental entity may deposit in the flood project
13 fund any other moneys lawfully received by the governmental
14 entity, including but not limited to local sales and services
15 tax receipts.

16 The bill authorizes the issuance of bonds by a governmental
17 entity for the payment of project costs, as defined in
18 the bill, that are payable from moneys deposited in the
19 governmental entity's flood project fund if the governmental
20 entity is receiving sales tax revenue under the bill. The
21 principal and interest on such bonds issued by a governmental
22 entity are payable solely from and secured by the revenue
23 derived from the increased sales tax revenues received by the
24 governmental entity and from other funds of the governmental
25 entity lawfully available from the governmental entity's flood
26 project fund. In issuing the bonds, the governmental entity
27 must comply with the revenue bond authorization procedures
28 applicable to cities pursuant to Code section 384.83. The
29 bill provides that bonds, notes, or other obligations issued
30 by a governmental entity are not an obligation of the state.
31 The bill also provides that, except as specifically provided
32 in the bill, bonds, notes, or other obligations issued by a
33 governmental entity are not an obligation of any political
34 subdivision of the state except the governmental entity. The
35 bill prohibits a governmental entity from pledging the credit

1 or taxing power of the state. Except as specifically provided
2 in the bill, a governmental entity is prohibited from pledging
3 the credit or taxing power of a political subdivision of the
4 state.

5 If the moneys in the governmental entity's flood project
6 fund are insufficient to pay the governmental entity's
7 costs related to bonds, notes, or other obligations issued
8 under the bill, the amounts necessary to pay such costs may
9 be levied and transferred for deposit in the governmental
10 entity's flood project fund from the debt service fund of the
11 governmental entity, or, if applicable, the debt service fund
12 of a participating city or county for a governmental entity
13 operating under a Code chapter 28E agreement, as provided in
14 the Code chapter 28E agreement or the resolution authorizing
15 the issuance of the bonds, if applicable.

16 The bill provides that a governmental entity shall not
17 receive remittances of sales tax increment revenue under the
18 bill after 25 years from the date the governmental entity's
19 project was approved by the board. The bill provides that if
20 the governmental entity ceases to need the sales tax increment
21 revenues prior to the expiration of such limitation, the
22 governmental entity shall notify the director of revenue.

23 Under the bill, all property and improvements acquired by a
24 governmental entity operated under a Code chapter 28E agreement
25 relating to a project shall be transferred to the county,
26 city, or drainage district designated in the Code chapter 28E
27 agreement to receive such property and improvements. The
28 city or county to which such property or improvements are
29 transferred shall, unless otherwise provided in the Code
30 chapter 28E agreement, be solely responsible for the ongoing
31 maintenance and support of such property and improvements.

32 The bill takes effect upon enactment.